REMARKS

Claim 52 remains in the application and is in independent form. Claim 52 has been amended to clarify the method and remove subjective terms. More specifically, Applicant has clarified the augmenting method, i.e. the displaying, selecting, providing, choosing, and calculating steps, in order to reflect that these steps are repeated for at least a second information prompting form, as shown in Figures 1 and 2. In other words, at "20" in Figure 1, the method is repeated for a next form (form f+1) in order to calculate accurate conclusions and provide appropriate DRG assignments. No new matter has been added, the previously included steps ("displaying a selection of prompted information forms, providing more accurate and alternative conclusions, and predetermined criteria supporting the conclusions, choosing, adding, deleting, or modifying a conclusion, and providing additionally prompted information forms") have been merely amended to clarify that the augmenting method is repeated for multiple information prompting forms.

Applicant wishes to express his appreciation for the courtesies extended Applicant's representative, Laura S. Dellal, during a personal interview conducted on March 13, 2008.

Claim 52 stands rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0002325 to Iliff. Specifically, the Office Action holds that Iliff teaches that a Node Object (NO) describes the software elements required to ask a single, well-defined question of the patient and to return the response selected by the patient. It is the task of the NO to present the required data to the GUI in a form that will appear in a user-friendly manner on the user display.

The Office Action holds that Iliff teaches that it is the task of the NO to possibly re-prompt the user. Iliff teaches that it is the task of the NO to present the

required data to the GUI in a form that will appear in a user-friendly manner on the user display, to wait an appropriate amount of time for a user response, to possibly re-prompt the user, and to ultimately return the user's response. Iliff teaches that the synergy invention approximates the cognitive process of a human medical expert by providing for non-linear weighting of symptoms, by incrementally adding small weights to account for fine differences in patient health states. Iliff teaches that at decision state 422, if the diagnostic mode is to select the candidate disease using some other criterion such as direct patient input, function 120 moves to state 424, which uses some other criterion in a similar manner to select the disease. Iliff teaches that the synergy invention approximates the cognitive process of a human medical expert by dynamically guiding the diagnostic process itself into productive channels. Iliff teaches that the use of diagnostic weights for simple symptom values is a first-order effect.

The Office Action further holds that Iliff teaches that Figure 28 depicts a form or screen display that lets a patient arrange a set of symptoms into the time order in which they actually occurred in the patient. This is one embodiment that uses a graphic user interface and input form to obtain the patient's input. Iliff teaches that the use of time-based synergistic values is a second-order effect, a mathematical "fine-tuning" that helps to differentiate competing diagnoses. Iliff teaches that prior to entry into the Update and Record function 160, the diagnostic loop 100 has just recomputed the diagnostic weights of all candidate diseases based on some new value for the current focus symptom. Iliff teaches that it is the task of the NO to possibly re-prompt the user. Iliff teaches that the system updates all working lists and records with new values, scores, and diagnoses. Iliff teaches that a diagnostic report is prepared that summarizes the actions taken and the results computed. Iliff does not explicitly teach information prompting forms; however, the Office Action holds that it would have been obvious to one of ordinary skill in the art to substitute the GUI and input form of Iliff for the claimed information prompting forms to achieve the predictable results of a form that will appear in a user-friendly manner on the user display.

In response to Applicant's previous arguments, the Office Action notes that the argument that the presently pending independent claim is directed towards a health-care provider-interactive method for supporting and augmenting a diagnosis as needed for appropriate DRG assignment must result in a structural difference between the claimed invention and the prior art. In response thereto, Applicant has added structural language to the claim to reflect the step of "providing an appropriate DRG assignment for the patient". Support for this amendment can be found in the preamble of the previously submitted claim 52, as well as in paragraph [0014] ("there is a need for a system to augment the medical coding in the inpatient setting to obtain accurate DRG-based reimbursement"), paragraph [0053] ("Preferably though, the present invention is well suited for use with payment reimbursement systems with regard to medical treatment and services."), paragraph [0069] ("Specifically, the present invention is a documentation system and method for eliciting more accurate conclusions, such as diagnosis and medical billing codes, through the analysis of previously entered data and predetermined criteria. Thus, the present invention assists the health care provider to more accurately document patient information, diagnosis, treatment, and services in order to enhance patient care as well as to allow the health care provider to be fully and properly reimbursed from third party payers. Moreover, the use of the present invention allows for the migration of lower weighted DRGs to higher weighted DRGs when appropriate. The use of the present invention enhances the compliance function for both physicians and hospitals and ultimately minimizes the risk of violating HCFA and other third party payer regulations."), and paragraph [0098] ("When the patient encounter and documentation are completed, the system calculates and generates a recommended E&M CPT-4 Code (32).")

Any need or problem known in the field of endeavor at the time of invention and addressed by the patent can provide a reason for combining the elements in the manner claimed"; however, that reason must be present for the combination to be obvious. *KSR Intern Co. v. Teleflex*, 127 S. Ct. 1727, 1742, U.S. (2007). This

requirement was confirmed in *Takeda Chem. Indust., et al. v. Alphapharm*, No. 06-1329 (Fed. Cir. 2007).

Iliff discloses a computerized diagnostic and treatment advice system. The goal of Iliff is to "give better medical advice than a family practitioner who is unfamiliar with a patient." Col. 3, lines 30-32. The system of Iliff overcomes "the deficiencies of self-help books." Col. 3, line 45. The patient calls into the system, describes their symptoms, and the system provides the patient with advice. The system of Iliff does not provide an appropriate DRG assignment for the patient as the patient is not receiving any treatment, only a suggestion as to what their medical ailments are over the phone without performing any actual diagnostic tests. As stated in column 25, lines 35-45, the only cost that may be recovered is the cost of the phone call by the hospital running the system of Iliff. There is no need to provide an accurate DRG assignment, because a bill is generated only if a phone call is placed to the system, something that is not hard at all to determine.

In contradistinction, the main premise of the present invention is to provide an appropriate DRG assignment for a patient as this is lacking in the art. As stated above, obtaining an accurate reimbursement from patient services has been a problem long known in the art. Through the medical personnel/physician entering information about the patient and being prompted for accurate information according to the present invention, not the patient themselves as in Iliff, the appropriate billing codes can be generated for reimbursement by the hospital. The present invention helps the physician enter the appropriate codes according to government regulations and guidelines, as well as prompts the physician to consider additional tests and diagnoses that could be performed for a particular billing code that they may not have otherwise have prescribed.

Since neither the cited reference alone or in combination with knowledge in the art suggest the currently claimed invention, it is consequently respectfully submitted that the claims are clearly patentable over the combination, even if the

combination were to be applied in opposition to applicable law, and reconsideration of the rejection is respectfully requested.

It is respectfully submitted that the present amendment places the application in condition for allowance as it removes all remaining issues in dispute. Specifically, the amendment does exactly what is suggested in the Office Action, that is positively set forth the distinguishing limitations. The claims have been made no broader in scope thereby requiring no further searching and raising no new issues. In fact, all claims now include limitations of previously pending claims and were therefore previously searched. Since there is no prior art cited against any of these claims, it is respectfully submitted that all of the claims are in condition for allowance.

In conclusion, it is respectfully requested that the present amendment be entered in order to place the application in condition for allowance, which allowance is respectfully requested.

The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.

Respectfully submitted,

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CERTIFICATE OF ELECTRONIC FILING VIA EFS-WEB

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I hereby certify that this correspondence is being electronically filed with the United States Patent & trademark Office on the above date.

Terry Horst